



Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

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Date: 18 February 2021

TO: **MINISTER OF JUSTICE AND CORRECTIONAL SERVICES, MR. R LAMOLA**

C/O Personal Assistant to the Minister, Ms. Z Ndlovu

SALU Building, 28th Floor, 316 cnr Thabo Sehume and Francis Baard Streets, PRETORIA

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Dear Minister

REQUEST TO ADJUST THE VALUE OF PROPERTY EXEMPTED FROM EXECUTION IN TERMS OF MAGISTRATES COURT ACT AND IN ANY OTHER COURT

1. Liberty Fighters Network (LFN) is a well-known social justice organisation and had been acknowledged by our Courts as an entity to act in the interest of both our members and the public.
2. Section 67 of the Magistrates Court Act, 1944 (Act No. 32 of 1944) prescribes that certain property is exempted from seizure and shall not be attached or sold.
3. However, the Justice Minister, last updated this amount, as far as writer could establish, in GN R385 GG 15527 of 1 March 1994. The exempted amount was then set to R2000.
4. From this last determination 27 years ago, one would find that in respect of any process of execution issued out of any court the following property, *inter alia*, shall be protected from seizure and shall not be attached or sold, namely:

- (a) The necessary furniture (other than beds) and the household utensils in so far as they do not exceed in value the sum of R2000;
- (b) Stock, tools and agricultural implements of a farmer in so far as they do not exceed in value the sum of R2000;
- (c) Tools and implements of trade, in so far as they do not exceed in value the sum of R2000; and
- (d) Professional books, documents or instruments necessarily used by such debtor and his profession, in so far as they do not exceed in value the sum of R2000.

- 5. If this value was dependent on the CPI, as it should, this exempted value would have been around R10000 in today's value.
- 6. In practice, LFN noted that the estimates made by Sheriffs do not allow much property to be left at the current R2000 limit. This attachment is very much relevant *in lieu* of security for a landlord's rental hypothec in terms of Section 32 of the Act. After such an attachment, in most cases, tenants have nothing and many times used as an easy replacement for an eviction in order to bypass the PIE Act.
- 7. Section 9 of the Constitution of the Republic of South Africa, 1996 reads that everyone is equal before the law and has the right to equal protection and benefit of the law; Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- 8. As this value currently stands, *inter alia*, the debtors category, predominantly those from traditionally disadvantaged communities struggling to become financially emancipated, are clearly being discriminated against due to this amount not keeping track with the CPI. Reality is that over the past almost three decades many of our people have already lost more personal belongings to unconstitutional legal attachment than what they were supposed to lose. According to LFN, this defect is a major cause why so many of our people find it simply impossible to build any wealth, constantly having to lose everything *via* legal attachment and then start all over again from the very bottom with basics.
- 9. It should be no shock to you, Minister, to note that the only people who really benefitted in this process were the Sheriffs and legal practitioners. Many of them buying those attached goods themselves, in one way or another, at ridiculously discounted rates not even benefitting the judgment creditors one bit. These auctions actually became business ventures for legal professionals at the expense of both the creditors and debtors.

10. If you, Minister, urgently change this clear deficiency in our law, it can surely give a tremendous boost to our economy and all our people who have suffered severely under the COVID-19 measures.
11. **LFN will appreciate if you, Minister, urgently give attention to this very important matter and notify writer accordingly. In the event that you fail to effect these changes by no later than 19 March 2021, LFN will have no other option but to approach the High Court for an order declaring this defect as unconstitutional and invalid.**
12. LFN truly hopes that you, Minister, will realise that this matter has valid merits and is by no way frivolous or vexatious.

Yours Faithfully,

Reyno D. De Beer

President: Liberty Fighters Network

[ELECTRONICALLY SUBMITTED WITHOUT A SIGNATURE]